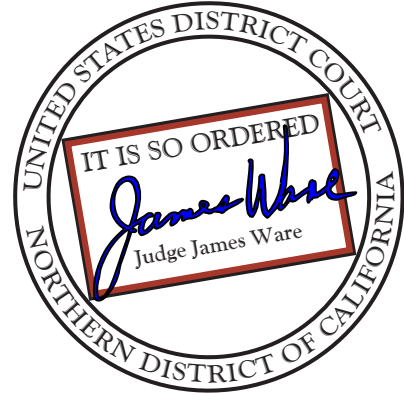


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MBNA America Bank, N.A.



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN GORMAN,)	CASE NO.: C-04-4507 JW
)	
Plaintiff,)	JOINT CASE MANAGEMENT
)	CONFERENCE STATEMENT
vs.)	
)	AND ORDER VACATING CASE
WOLPOFF & ABRAMSON, LLP;)	MANAGEMENT CONFERENCE
MBNA AMERICA BANK, N.A., and)	
Does 1 through 100, inclusive,)	
)	
Defendants.)	
_____)	

1 Pursuant to this Court's Order dated February 4, 2009, plaintiff JOHN GORMAN
2 and defendant MBNA America Bank, N.A. ("MBNA") hereby submit the following Joint
3 Case Management Conference Statement:

4 On January 12, 2009, the United States Court of Appeals for the Ninth Circuit issued
5 its opinion affirming in part and reversing in part this Court's Order of June 23, 2006. *See*
6 *Gorman v. Wolpoff & Abramson, LLP*, 552 F.3d 1008 (9th Cir. 2009).

7 Pursuant to Federal Rule of Appellate Procedure 41(b), absent an order shortening or
8 extending the time, the Ninth Circuit's mandate "must issue 7 calendar days after the time to
9 file a petition for rehearing expires, or 7 calendar days after entry of an order denying a
10 timely petition for penal hearing, petition for rehearing en banc, or motion for stay of
11 mandate, whichever is later." The Ninth Circuit did not issue an order shortening or
12 extending the time for the issuance of the mandate.

13 On January 27, 2009, the Ninth Circuit issued an Order granting MBNA an extension
14 of time until February 25, 2009 to file a Petition for Panel Rehearing and Rehearing En
15 Banc. *See* Exhibit A, hereto.

16 On February 2, 2009, the Ninth Circuit issued an Order granting Gorman an
17 extension of time until February 25, 2009 to file a Petition for Panel Rehearing and
18 Rehearing En Banc. *See* Exhibit B, hereto.

19 On February 24, 2009, Gorman filed in the Ninth Circuit his Petition for Panel
20 Rehearing.

21 On February 25, 2009, MBNA filed in the Ninth Circuit its Petition for Panel
22 Rehearing and Rehearing En Banc.

23 Pursuant to Federal Rule of Appellate Procedure 41(d)(1), the "timely filing of a
24 petition for panel rehearing [or] petition for rehearing en banc . . . stays the mandate until
25 disposition of the petition . . . unless the court orders otherwise."

26 The Ninth Circuit has not yet ruled on the parties' Petitions for Panel Rehearing and
27 Rehearing En Banc, nor has it issued its mandate.

1 Until the Ninth Circuit issues its mandate, this Court lacks jurisdiction over this
 2 matter. *See Caldwell v. Puget Sound Apprenticeship & Training Trust*, 824 F.2d 765, 767
 3 (9th Cir. 1987).

4 Accordingly, the parties jointly request that the Court vacate its February 4, 2009
 5 Order and vacate the March 9, 2009 Case Management Conference, with the understanding
 6 that a Case Management Conference will be reset upon issuance of an appropriate mandate
 7 restoring jurisdiction to the District Court.

8
 9 DATED: February 27, 2009

SIMMONDS & NARITA LLP
 TOMIO B. NARITA
 JEFFREY A. TOPOR

10
 11
 12 By: /s/ Jeffrey A. Topor
 13 Tomio B. Narita
 14 Attorney for Defendants
 Wolpoff & Abramson, L.L.P and MBNA
 America Bank, N.A.

15
 16 DATED: February 27, 2009


GORMAN & MILLER, PC
 JOHN C. GORMAN
 CHARLES STIEGLER

17
 18
 19 By: /s/ John C. Gorman
 20 John C. Gorman
 21 Attorney for Plaintiff
 John C. Gorman

22 ***** ORDER *****

23 In light of the parties' representation, the Court VACATES the Case Management Conference
 24 currently set for March 9, 2009. The Court will set another conference date once the mandate is
 25 issued.

26
 27 Dated: March 3, 2009


 28 JAMES WARE
 United States District Court